

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/868,884	BAXTER ET AL.	
	Examiner	Art Unit	
	Tamthom N. Truong	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- This communication is responsive to amendment of 12-10-03.
- The allowed claim(s) is/are 1-11 and 20-26.
- The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
  - 1.  Certified copies of the priority documents have been received.
  - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- Notice of References Cited (PTO-892)
- Notice of Draftsperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 8
- Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- Notice of Informal Patent Application (PTO-152)
- Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
- Examiner's Amendment/Comment
- Examiner's Statement of Reasons for Allowance
- Other "Allowable Subject Matter".

1. This application is in condition for allowance except for the presence of the non-elected subject matter in the definitions of "A" and "R<sup>1</sup>" (without traverse). Accordingly, the non-elected subject matter has been deleted. Also, the provisos drawn to furan, pyrrole, oxazole, thiazole or imidazole are no longer applicable, and thus, are deleted as well.

#### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Claim 1:

Line 4, in the definition of A, delete "**furan, pyrrole, imidazole, thiazole or oxazole**";

Line 5, in the definition of R<sup>1</sup>, delete "**or a 5- to 7-membered heteroaromatic ring containing one to three heteroatoms selected independently from oxygen, nitrogen or sulfur**";

Line 6, after the phrase 'said phenyl', delete "**or heteroaromatic ring**";

Line 29, the first proviso, after the word 'thiophene,' delete "**furan or pyrrole**";

Line 30, delete "**and**"

Lines 31-32, delete the entire second proviso, that is, delete "**when A represents oxazole, thiazole or imidazole, then R<sup>1</sup> is not 3-pyridyl or 5-pyrimidyl.**"

Claim 3:

Line 2, insert the word – and – after ‘CR<sup>2</sup>,’ and delete “O and NR<sup>25</sup>,”

Cancel claims 4 and 5;

Claim 8: delete the 6<sup>th</sup> compound, 8<sup>th</sup> compound, 44<sup>th</sup> - 47<sup>th</sup> compounds, 53<sup>rd</sup>, 55<sup>th</sup>, 57<sup>th</sup> compounds, 60<sup>th</sup> - 64<sup>th</sup> compounds, 68<sup>th</sup> – 77<sup>th</sup> compounds, 84<sup>th</sup> – 87<sup>th</sup> compounds.

***Allowable Subject Matter***

3. Applicant's amendment and argument of 12-10-03 have overcome the previous 103 rejection based on **Hallenbach et. al.** (EP 202,538). Thus, said rejection is withdrawn herein for the allowance of claims 1-11, and 20-26.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-T (~10 am ~ 8:30 pm) starting from February 22<sup>nd</sup>, 2004.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at 571-272-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting SPE of 1624, at 571-272-0661. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

T. Truong

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March 2, 2004



RICHARD L. RAYMOND  
ACTING SPE  
ART UNIT 1624